

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

RICHARD C. SWANSON,)	CASE NO. 1:08 CV 1720
)	
Plaintiff,)	JUDGE KATHLEEN M. O'MALLEY
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
OHIO ADULT PAROLE AUTHORITY,)	<u>AND ORDER</u>
)	
Defendant.)	

On July 18, 2008, plaintiff pro se Richard C. Swanson filed this mandamus action against the Ohio Adult Parole Authority. The complaint seeks an order to compelling defendant to comply with Ohio statutes governing parole. In particular, he seeks an order granting him release from incarceration, on the ground that his parole was not revoked in a timely manner. For the reasons stated below, this action is dismissed.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C.

§1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

As a threshold matter, this court may not issue a writ of mandamus to direct state courts or their judicial officers in the performance of their duties. Haggard v. State of Tennessee, 421 F.2d 1384 (6th Cir. 1970). Further, the Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475, 501 (1973).

Accordingly, this action is dismissed without prejudice under section 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

s/ Kathleen M. O'Malley
KATHLEEN M. O'MALLEY
UNITED STATES DISTRICT JUDGE

DATED: October 27, 2008